

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

JOSEPH SPURLOCK,
Plaintiff, : Case No. 1:23-cv-721
vs. : Judge Matthew W. McFarland
: Magistrate Judge Karen L. Litkovitz
CHAPLAIN RUCKEL, *et al.*,
Defendants. :
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REPORT AND RECOMMENDATION

On April 26, 2024, defendants Dr. Mike Davis and Chaplain Joshua Ruckel filed a motion for summary judgment. (Doc. 13). On April 29, 2024, the Court mailed plaintiff a Notice stating that his “failure to file a memorandum in response” to that motion “within 21 days from the date of service set forth in the certificate of service attached to the motion may warrant dismissal of this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.” (Doc. 14). Plaintiff failed to respond within such time, and on May 30, 2024, the Court issued an Order to plaintiff to show cause on or before June 28, 2024, why his case should not be dismissed, with prejudice, for want of prosecution. (Doc. 15). To date, plaintiff has failed to file a response to the Court’s Order to Show Cause.

“Federal courts possess certain ‘inherent powers . . . to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.’” *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 107 (2017) (quoting *Link v. Wabash R.R.*, 370 U.S. 626, 630-31 (1962)). Plaintiff’s failure to (1) respond to defendants’ motion for summary judgment; and (2) respond to the Order to Show Cause (Doc. 15) warrants exercise of the Court’s inherent power and

dismissal of this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute this matter. *See Link*, 370 U.S. at 630-31; *Jourdan v. Jabe*, 951 F.2d 108, 109-10 (6th Cir. 1991).

IT IS THEREFORE RECOMMENDED THAT:

1. This case be **DISMISSED** with prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b).
2. The Court certify pursuant to 28 U.S.C. § 1915(a) that for the foregoing reasons an appeal of any Order adopting this Report and Recommendation would not be taken in good faith and therefore deny plaintiff leave to appeal *in forma pauperis*. Plaintiff remains free to apply to proceed *in forma pauperis* in the Court of Appeals. *See Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

July 15, 2024


KAREN L. LITKOVITZ
UNITED STATES MAGISTRATE JUDGE

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	:	Judge Matthew W. McFarland
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
CHAPLAIN RUCKEL, <i>et al.</i> , Defendants.	:	
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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).